RESOLUTION NO. C-2016-09

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF EVANSVILLE, INDIANA, APPROVING AN AMENDMENT TO A LEASE BETWEEN THE CITY OF EVANSVILLE REDEVELOPMENT AUTHORITY AND THE CITY OF EVANSVILLE REDEVELOPMENT COMMISSION AND TAKING OTHER ACTIONS RELATED THERETO**

WHEREAS, the City of Evansville Redevelopment Authority (the "Authority") has been created pursuant to Indiana Code 36-7-14.5 as a separate body corporate and politic, and as an instrumentality of the City of Evansville, Indiana (the "City") to finance local public improvements for lease to the City of Evansville Redevelopment Commission (the "Commission"); and

WHEREAS, the Authority, as lessor, and the Commission, as lessee, entered into a Lease, dated as of March 9, 2010, as amended by an Addendum to Lease dated as of May 20, 2010 (collectively, the "Original Lease"); and

WHEREAS, the Authority issued its Taxable Lease Rental Revenue Bonds, Series 2010B, dated May 20, 2010, in the original aggregate principal amount of One Hundred Sixteen Million Six Hundred Twenty Thousand Dollars ($116,620,000) (the "2010B Bonds") pursuant to a Trust Indenture, dated as of May 1, 2010, between the Lessor and Old National Trust Company, as trustee, for the purpose of procuring funds to finance the design and construction of a new arena in the city, to pay capitalized interest on the 2010B Bonds, to fund a debt service reserve fund, and to pay costs incurred on account of the issuance and sale of the 2010B Bonds; and

WHEREAS, the 2010B Bonds are currently outstanding in the aggregate principal amount of One Hundred Thirteen Million Six Hundred Twenty-Five Thousand Dollars ($113,625,000); and

WHEREAS, due to favorable market conditions, the Authority desires to refund all or a portion of the outstanding 2010B Bonds (the "Refunded Bonds") in order to effect a savings in the interest costs on the Refunded Bonds; and

WHEREAS, the Authority has adopted, or is expected to adopt, a resolution authorizing the issuance of one or more series of refunding bonds designated as the "City of Evansville Redevelopment Authority Lease Rental Revenue Refunding Bonds, Series 2016 (with such additional or different series designation as may be determined to be necessary or appropriate)," in the aggregate principal amount not to exceed One Hundred Five Million Dollars ($105,000,000) (the "2016 Bonds"), for the purpose of providing funds to (a) provide for the crossover refunding of all or a portion of the Refunded Bonds, (b) if necessary, fund a debt service reserve fund or pay the premium for a debt service reserve fund surety policy, and (c) pay

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the costs incurred on the account of the issuance and sale of the 2016 Bonds, including any premiums for a municipal bond insurance policy or other form of credit enhancement for the 2016 Bonds; and

WHEREAS, pursuant to the Original Lease, the Commission has agreed to pay the Authority fixed annual rental payments, which were based on the annual amounts of principal and interest due on the 2010B Bonds in each twelve-month period ending on each February 1 (each, an "Annual Period"), plus an additional amount to cover certain incidental expenses related to the 2010B Bonds, payable in advance in semiannual installments on February 1 and August 1 of each year; and

WHEREAS, the Authority and the Commission have adopted, or are expected to adopt, resolutions approving an amendment to the Original Lease, in substantially the form presented at this meeting (the "Lease Amendment"), for the purpose of reducing the annual lease rental payments due under the Original Lease to correspond with the reduced debt service owed under the 2016 Bonds, plus certain annual administrative costs and expenses related to the 2016 Bonds, thereby realizing a portion of the savings achieved by refunding the Refunded Bonds; and

WHEREAS, the Common Council of the City (the "Common Council") desires to approve the Lease Amendment pursuant to Indiana Code 36-7-14-25.2, which provides that any lease approved by a resolution of the Commission must be approved by a resolution of the fiscal body of the unit; and

WHEREAS, the annual rentals (the "Lease Rentals") payable by the Commission under the Original Lease, as amended by the Lease Amendment (collectively, the "Lease"), will be pledged by the Authority to pay debt service on the Refunded Bonds, the unrefunded 2010B Bonds and the 2016 Bonds; and

WHEREAS, the Commission reasonably expects to pay the Lease Rentals during the term of the Lease from available revenues of the Commission as described in the Lease;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF EVANSVILLE, INDIANA, as follows:

Section 1.    Approval of 2016 Bonds and Lease Amendment.  The Common Council hereby approves the issuance of the 2016 Bonds and the execution and delivery of the Lease Amendment, as approved by the Commission, pursuant to Indiana Code 36-7-14-25.2, subject to the following conditions: (a) the maximum aggregate original principal amount of the 2016 Bonds shall not exceed One Hundred Five Million Dollars ($105,000,000); (b) the maximum annual lease rental payment during the term of the Original Lease, as amended by the Lease Amendment, shall not exceed  Eight Million Two Hundred Fifty Thousand Dollars ($8,250,000); (c) the maximum interest rate on the 2016 Bonds shall not exceed five percent (5.0%) per annum; and (d) the 2016 Bonds may be subject to redemption prior to maturity on any date not earlier than eight (8) years following the date of issuance of the 2016 Bonds, with such specific dates and redemption terms determined at the time of the sale of the 2016 Bonds and approved by the Authority in the purchase agreement for the 2016 Bonds, all upon the advice of the financial advisor to the Authority.

Section 2.    Severability. If any part of this Resolution shall be adjudged to be invalid by a court of proper jurisdiction, it shall be conclusively presumed that the Common Council would have passed the remainder of this Resolution without such invalid part.

Section 3.    Authorization of Other Actions. Each of the Mayor, any member of the Common Council and the Controller, and any other officer, employee or agent of the City is hereby authorized and directed, for and on behalf of the City, to execute and deliver any contract, deed, agreement, certificate, instrument or other document and to take any action as such person determines to be necessary or appropriate to accomplish the purposes of this Resolution, such determination to be conclusively evidenced by such person's execution of such contract, deed, agreement, certificate, instrument or other document or such person's taking of such action.

Section 4.    Repeal of Conflicting Resolutions. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflict, hereby repealed.
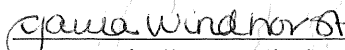
Section 5.    Effectiveness. This Resolution shall be in full force and effect from and after its adoption by the Common Council and upon compliance with the procedures required by law.

Passed and adopted by the Common Council of the City of Evansville, Indiana on the ∂3 day of may , 2016.
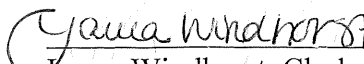
_____
Presiding Officer

Attest:

_____
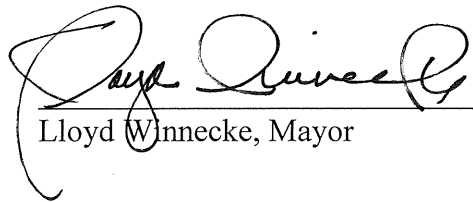Laura Windhorst, Clerk

Presented by me to the Mayor of the City of Evansville, Indiana on the ∂4 day of may , 2016, at the hour of 9 , A.m.

_____
Laura Windhorst, Clerk

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This resolution approved and signed by me on the ___25th___ day of ___May___ , 2016, at the hour of __11:00__ , __A__ .m.

_(signature)_

Lloyd Winnecke, Mayor

Approved as to Form:

_____

Corporation Counsel

STATE OF INDIANA               )
                                          ) SS:

COUNTY OF VANDERBURGH    )

       I, Laura Windhorst, hereby certify that I am the duly qualified and acting Clerk of the City of Evansville, Indiana, and as such official I further certify that attached hereto is a correct and complete copy of Resolution No. _C-2016-09_ adopted by the Common Council of the City on _May 23_, 2016.

       WITNESS my official signature and the seal of the City this _24_ day of _May_, 2016.

                                            _Laura Windhorst_
                                          Laura Windhorst, Clerk

(SEAL)

*[handwritten signature]* City Clerk

AMENDMENT TO LEASE AGREEMENT


by and between


CITY OF EVANSVILLE REDEVELOPMENT AUTHORITY


and


CITY OF EVANSVILLE REDEVELOPMENT COMMISSION


Dated as of _____ 1, 2016

WHEREAS, pursuant to the Lease, the Lessee has agreed to pay to the Lessor fixed annual rentals, which are based on the annual amount of principal and interest due on the 2016 Bonds maturing after August 1, 2020, and any unrefunded 2010B Bonds; and

WHEREAS, the Lessor and Lessee desire to amend the Lease to provide for annual lease rentals payable by the Lessee in amounts that correspond with the principal and interest payable on the 2016 Bonds maturing after August 1, 2020, and any unrefunded 2010B Bonds, plus certain administrative costs and expenses due each year;

NOW THEREFORE, in consideration of the premises, the covenants and agreements hereinafter contained, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lessor and the Lessee agree as follows:

## PART I

### AMOUNT OF RENT PAYABLE AND RENTAL PAYMENT DATES

The schedule of the amount and date of each semiannual installment of Fixed Rental Payments payable under the Lease, is hereby amended to read in its entirety as set for in Exhibit A attached hereto.

## PART II

### REAFFIRMATION OF LEASE

Except as otherwise provided herein, all terms, conditions and provisions of the Lease are hereby ratified and affirmed.

## PART III

### EFFECTIVE DATE

The provisions of this Amendment to Lease Agreement are only effective upon the issuance of the 2016 Bonds.

STATE OF INDIANA          )
                                       ) SS:

COUNTY OF _____  )

       Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, personally known to be the President and Secretary-Treasurer, respectively, of the City of Evansville Redevelopment Authority (the "Authority"), and acknowledged the execution of the foregoing Amendment to Lease Agreement for and on behalf of the Authority.

       WITNESS my hand and notarial seal this _____ day of _____, 2016.


                                   _____

                                        (Written Signature)
(Seal)

                                   _____

                                        (Printed Signature)
                                           Notary Public

My Commission expires:          My county of residence is:


_____             _____

# EXHIBIT A

## Adjusted Lease Rental Payment Schedule